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# DIRECTIVE #177

March 31, 2003

Accident & Health Companies
Health Maintenance Organizations
Third Party Administrators

## *HEALTH INSURANCE ISSUER GUIDELINES* FOR REPLACEMENT OF A HEALTH BENEFIT PLAN OF SIMILAR BENEFITS

## AUTHORITY

LRS §22:215.6
Administrative Ruling In Docket No. 95-2019

## BACKGROUND

Clarification is needed regarding the liabilities of health insurance issuers when a health benefit plan is being replaced by a health benefit plan of similar benefits. The statutory requirements apply to Health and Accident Insurers as well as Health Maintenance Organizations (see LRS §22:215.6,C, definition of a Health Benefit Plan).

When a health benefit plan replaces one health insurance issuer with another, the date that the replacement coverage begins establishes when liabilities begin to accrue for the replacement health insurance issuer. However, the date that the prior issuer's policy or contract for coverage ended does establish the end of all liability for benefits covered under the terminated policy or contract. A health insurance issuer whose policy or contract for coverage is ending, remains liable for payment of all covered medical services or losses that were accrued during the period of coverage.

LRS §22:215.6E(1) states:

"E. Whenever a contract of one carrier replaces a health benefit plan of similar benefits of another carrier:

(1) The prior carrier shall remain liable only to the extent of its accrued liabilities. The position of the prior carrier shall be the same whether the group policyholder or other entity secures replacement coverage from a new carrier, or a self-insurer, or foregoes the provision of coverage."

Compliance with this statute requires a clear understanding of the term "accrued liabilities". This issue has been adjudicated in accordance with Part XXIX of Title 22 of the Louisiana Revised Statutes of 1950 for administrative appeals. On March 20, 1996 an administrative ruling was made in Docket No. 95-2019 regarding the requirements of this statute and the obligations of health insurance issuers. The following guidance outlines the requirements of that ruling for enforcement of the statute by the Department of Insurance.

## THE ACCRUAL OF LIABILITIES

Under the conclusions of law reached by the Administrative Law Judge, the Department was advised of the following:

"The proper interpretation of R.S. 22:215.6,E is that when a patient who is under a health plan is admitted to a hospital, the liability of that health plan is accrued as of that time, and extends until [the] patient is discharged, whether or not the coverage by its term has expired."

The Administrative Law Judge made the following conclusions of law in this case.

1. The term "accrued" in the statute means to add to or increase, to accumulate or have due after a certain period of time. The liability of the health insurance issuer begins to accrue when the insured is admitted to a hospital under the terms of the policy in effect at the time of admission. The liability accrues until the time that the insured is discharged. The hospital stay is one occurrence.

2. LRS §22:215.6,E, (1) consists of two sentences that should be read together. The second sentence enhances the word "accrued" in the first sentence and insures there is no gap in coverage of an insured that has incurred a claim while the coverage is in effect. The statute provides that the liability of the health insurance issuer accrues through the hospital stay that was commenced while the insured was covered under the policy or contract.

## WHEN COVERAGE ENDS

A health insurance issuer whose policy or contract for coverage is ending, remains liable for payment of all covered medical services or losses that were accrued during the period of coverage. This means that any approved hospital admission that commences prior to or on the last day of coverage is a liability of the health insurance issuer. This liability ends on the date of discharge from the hospital.

## EFFECTIVE DATE

The statutory requirements addressed in this policy memorandum are in effect. Entities or plans identifying risk arrangements that violate the requirements of Louisiana law should immediately amend or cancel such agreements to assure full compliance.

J. ROBERT WOOLEY
ACTING COMMISSIONER OF INSURANCE